

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 4444 OF 2007

Manikrao Rajaram Shinde Petitioner

versus

Ashok Tukaram Shinde & ors..... Respondent.

Shri P.N.Joshi for the petitioner

Ms. V.S.Mhaispurkar AGP for Respondent.

CORAM; A.P. DESHPANDE, J.

DATED; 23RD JULY, 2007

P.C.;

1. The petitioner is a member of respondent no.2 society which in turn is a member of the Federal society by name Nashik District Central Co-operative Bank, respondent no.5. The society has nominated respondent no.1 as its delegate/representative on the Federal society. The petitioner objected to the inclusion of the name of the respondent no.1 as the representative of the respondent no.2 society on respondent no. 5 Federal society by contending that he is a defaulter. The application came to be rejected by the Collector and the name of respondent no.1 has been included in the final voter's list. The Collector has recorded a finding of fact that the respondent no.1 is not a defaulter for more than two instalments in repayment of loan and thus has not

incurred a disqualification under section 27(10) of the Act. The learned counsel for the petitioner has stated that the respondent no.1 incurs disqualification under byelaw no.26(d). The said byelaw was not pressed in service before the Collector and the objection was raised only in relation to the disqualification falling under section 27(10). This being the position, the Collector has not addressed himself to the issue as to whether respondent no.1 stands dis-qualified from being a representative under byelaw No.26(d). In the absence of any specific objection being raised by the petitioner before the Collector, the point cannot be permitted to be agitated for the first time in the writ petition. This writ petition deserves to be dismissed summarily. There is one more reason that no indulgence needs to be shown in the present petition and the same is that all other directors of the society appears to have chosen the respondent no.1 as their representative and the present petitioner appears to be in absolute minority. If the petitioner's objection is to be upheld the same will result in denial of any representation of the respondent no.2 society of which the petitioner is a member, and the same would be detrimental to the interest of respondent no.2 society. Hence writ petition is summarily dismissed.

